



CITY OF MEMPHIS

COUNCIL AGENDA

August 10, 2010

Public Session Tuesday, 3:30 p.m.

Council Chambers, First Floor, City Hall

125 North Main Street

Memphis, Tennessee 38103-2017

CALL TO ORDER by the Sergeant-at-Arms

INVOCATION

PLEDGE OF ALLEGIANCE

CALL OF ROLL by the Comptroller

APPROVAL OF PREVIOUS MEETING MINUTES (July 20, 2010)

ANNOUNCEMENT FOR APPEARANCE CARDS FOR PUBLIC SPEAKING

ITEMS HELD OR DROPPED FROM THE AGENDA

PRESENTATIONS AND RECOGNITION OF VISITORS

1. RESOLUTION recognizing “Miss Tennessee 2010” Nicole Jordan.
Boyd

ACTION REQUESTED: Adopt the resolution

2. PRESENTATION of CERTIFICATES to 2010 City of Memphis Law Division interns.
Ware

PUBLIC HEARINGS

3. RESOLUTION approving a planned development located on the west side of McLean Boulevard; between Hunter Avenue and Hubert Avenue, containing 2.58 acres in an area currently governed by the regulations for McLean Planned Development (P.D. 87-312).
Ford Case No. PD 10-307

Applicant: NexAir – Chuck Britton and Timmothy Sammarco
Solomito Land Planning – Brenda Solomito – Representative

Request: Revise the conditions to allow for the expansion of the NexAir Facility

LUCB and OPD recommendation: APPROVAL, with conditions

ACTION REQUESTED: Take whatever action Council deems advisable

81 NOTICES WERE MAILED ON JULY 23, 2010

4. RESOLUTION approving a special use permit located on the east side of Cherry Road, opposite and south of intersection with Dunn Road, containing 0.482 acre in the Local Commercial (C-L) District.(Held from 7/20)

Ford

Case No. SUP 09-218

Applicant: Allen Parker, Jr.
Whit Gurkin, Attorney at Law – Representative

Request: Motor Vehicle Service

LUCB and OPD recommendation: APPROVAL, with conditions

ACTION REQUESTED: Take whatever action Council deems advisable

No Opposition at LUCB; No Public Hearing Required

5. RESOLUTION approving a special use permit located on the northwest corner of Sanderlin Road and Whitten Street, containing 3.925 acres in the Single Family Residential (R-S10) District.

Ford

Case No. SUP 10-220

Applicant: Bright Glade Southern Health Care Center Inc.
SR Consulting, LLC – Cindy Reaves

Request: Nursing Home

LUCB and OPD recommendation: APPROVAL

ACTION REQUESTED: Take whatever action Council deems advisable

No Opposition at LUCB; No Public Hearing Required

DIVISION OF PLANNING & DEVELOPMENT

6. RESOLUTION approving a Hotel Waiver for Drury Inn & Suites, located at 1556 Sycamore View Road.

Ford

Case No. HMW 10-05

ACTION REQUESTED: Adopt the resolution

7. RESOLUTION approving a Hotel Waiver for the Iris Motel, located at 1950 Elvis Presley Blvd.

Ford

Case No. HMW 09-01

ACTION REQUESTED: Adopt the resolution

ZONING ORDINANCES – THIRD AND FINAL READING

8. **JOINT ORDINANCE** repealing the Memphis and Shelby County Zoning Regulations adopted by the Shelby County Board of Commissioners on October 6, 1981 and by the Memphis City Council on October 7, 1981, being Joint Ordinance and Resolution No. 3064, as amended; repealing the Memphis and Shelby County Subdivision Regulations adopted by the Shelby County Board of Commissioners and the Memphis City Council on December 19, 1983, being Joint Ordinance and Resolution No. 3352, as amended; and adopting the Memphis and Shelby County Unified Development Code to establish joint zoning and subdivision regulations, to provide for a board of adjustment and a land use control board, and to provide for the enforcement and penalties for violation of the regulations, up for T H I R D and F I N A L reading. (Held from 7/20)

Ford &
Morrison

Case No. ZTA 09-001cc
Ordinance No. 5367

Applicant: Division of Planning and Development
Josh Whitehead, Assistant City Attorney – Representative

Request: Adopt the Unified Development Code

OPD and LUCB recommendation: APPROVAL

ACTION REQUESTED: Take whatever action Council deems advisable

NO NOTICES WERE REQUIRED

9. **ORDINANCE** rezoning the west side of White Station Road; 255 feet north of Poplar Avenue, containing 0.679 acre in the General Office (O-G) District, up for T H I R D and F I N A L reading.

Ford

Case No. Z 10-106
Ordinance No. 5369

Applicant: Jack Erb Company
SR Consulting, LLC – Cindy Reaves – Representative

Request: Local Commercial (C-L) District

LUCB and OPD recommendation: APPROVAL

ACTION REQUESTED: Take whatever action Council deems advisable

57 NOTICES WERE MAILED ON JULY 23, 2010

10. **ORDINANCE** rezoning the southeast corner of Mariana Street and Midland Avenue, containing 0.50 acre in the Residential Duplex (R-D) District, up for T H I R D and F I N A L reading.

Ford

Case No. Z 10-104
Ordinance No. 5370

Applicant: Sarah Carver
Al Thompson, Attorney at Law and Israel Katz, CPA –
Representatives

Request: Planned Commercial (C-P) District

LUCB recommendation: APPROVAL

OPD recommendation: Hold for feasibility assessment

ACTION REQUESTED: Take whatever action Council deems advisable

136 NOTICES WERE MAILED ON JULY 23, 2010

11. **ORDINANCE** rezoning the south side of Poplar Avenue between N. Tucker Street and N. Rembert Street, containing 1.65 acres in the Multiple Dwelling Residential (R-MM) and Highway Commercial (C-H) Districts, up for T H I R D and F I N A L reading.

Ford

Case No. Z 10-107
Ordinance No. 5372

Applicant: Memphis College of Art

Request: College and University (CU) District

LUCB and OPD recommendation: APPROVAL

ACTION REQUESTED: Take whatever action Council deems advisable

39 NOTICES WERE MAILED ON JULY 23, 2010



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CONSENT AGENDA

GENERAL ORDINANCES - FIRST READING

12. **ORDINANCE** to amend Chapter 2 Code of Ordinances, City of Memphis to amend Certain Sections of 2-291 Relating to Real Property, up for F I R S T reading.

Conrad

Ordinance No. 5375

ACTION REQUESTED: Adopt the ordinance on First reading

13. **ORDINANCE** to amend Chapter 2 Code of Ordinances, City of Memphis, Section 2-272 Relating to Payments into the General Fund, up for F I R S T reading.

Conrad

Ordinance No. 5376

ACTION REQUESTED: Adopt the ordinance on First reading

14. **ORDINANCE** to amend Chapter 9 of the City of Memphis Code of Ordinances to include Nondiscrimination based upon Sexual Orientation, Gender Identity or Expression, up for F I R S T reading.

Fullilove

Ordinance No. 5377

ACTION REQUESTED: Adopt the ordinance on First reading

GENERAL ORDINANCES - SECOND READING

15. **ORDINANCE** to amend the Charter of the City of Memphis, the same being Chapter 11 of the Acts of 1879, as amended pursuant to the provisions of Article XI, Section 9 of the Constitution of the State of Tennessee (Home Rule Amendment) and the Acts of 1915, Chapter 408 and to submit this proposed Referendum Ordinance to the qualified voters of the City of Memphis at the first General State Election to be held November 2, 2010, up for S E C O N D reading.

Halbert

Ordinance No. 5373

ACTION REQUESTED: Adopt the ordinance on Second reading

16. **ORDINANCE** to amend Chapter 28, Article VI, Division 3, of the Code of Ordinances, so as to reduce the number of allowable False Alarms, include costs and add notification process of alarm user operating without a permit, up for S E C O N D reading.

Conrad

Ordinance No. 5374

ACTION REQUESTED: Adopt the ordinance on Second reading

ZONING ORDINANCES - FIRST READING (None)

ZONING ORDINANCES - SECOND READING (None)

ENGINEERING

17. RESOLUTION accepting WALNUT GROVE/HALL ROAD PD, AMENDED, PH. 4, and authorizing release of bond.

Case No. PD 01-305cc
(Contract No. CR-5110)

Resolution accepts completion of the improvements and the dedication of public streets and easements as shown on the final plat, located on the southwest corner of Houston Levee and Hall Rd. The standard improvement contract was approved on June 17, 2008. Resolution also authorizes the release of the performance bond in the amount of \$170,000.00. This action is subject to County approval.

City Engineer recommends approval

ACTION REQUESTED: Adopt the resolution

18. RESOLUTION accepting WALNUT GROVE/HALL ROAD PD, AMENDED, PH. 4 SEWER EXT., and authorizing release of bond.

(Contract No. CR-5110)

Resolution accepts completion of the improvements and the dedication of public streets and easements as shown on the final plat, located on the southwest corner of Houston Levee and Hall Rd. The standard sewer extension contract was approved on June 17, 2005. Resolution also authorizes the release of the letter of credit in the amount of \$220,000.00. This action is subject to county approval.

City Engineer recommends approval

ACTION REQUESTED: Adopt the resolution

19. RESOLUTION accepting WHITTEN/I-40 PD, 2ND AMENDMENT, PH. 18, SEWER EXTENSION, and authorizing release of bond.

(Contract No. CR-5148)

Resolution accepts completion of the improvements and the dedication of public streets and easements as shown on the final plat located on the northwest corner of Century Center Pkwy. and Whitten Rd. The standard improvement contract was approved on October 20, 2009. Resolution also authorizes the release of the performance bond in the amount of \$89,600.00.

City Engineer recommends approval

ACTION REQUESTED: Adopt the resolution

20. RESOLUTION approving the SUPPLEMENTAL AGREEMENT #2 to RAINES ROAD, PD, PHASE 2, PART OF PARCEL F.

Contract No. CR-3881AM

Resolution approves the Supplemental Agreement #2 located on the southeast corner of Raines Road and Tchulahoma Road. Cost of the required improvements to be borne by the Developer. Resolution also authorizes the proper officials to execute the attached Supplemental Agreement #2.

City Engineer recommends approval

ACTION REQUESTED: Adopt the resolution

NOTATIONS FROM OPD

21. **NOTATIONS** from Land Use Control Board that the following cases were heard and Recommendation made requesting a date of public hearing:

A. Case No. SAC 07-607

Located on the west side of Jack Carley Causeway, extending to the Mississippi River and containing 1.34 acres.

Applicant: South of Fleet Street, LLC

Request: Approval of a one-year time extension for the closing of Fleet Street to comply with the previously-approved conditions of the closing

LUCB and OPD recommendation: APPROVAL, with conditions

B. Case No. SAC 10-602

Beginning 180 feet south of Poplar Avenue between Alicia Street and Merton Street, containing .39 acre.

Applicant: Service Over Self, Incorporated and Abdo Sakaan

Request: Close an existing alley behind businesses that front Poplar Avenue from Alicia Street to Merton Street

LUCB and OPD recommendation: APPROVAL, with conditions

C. Case No. PD 10-308cc – MID-SOUTH CHRISTIAN COLLEGE PLANNED DEVELOPMENT

Located on the south side of E. Shelby Drive; +/-482 feet east of Wemberley Drive, containing 9.05 acres in the Agricultural (AG) District.

Applicant: Mid-South Christian College
McCaskill & Associates, Inc. – Representative

Request: Planned development to allow a seminary, including offices,
 chapel library, classrooms, student center and dormitories

LUCB and OPD recommendation: APPROVAL, with conditions

ACTION REQUESTED: Set a date of public hearing

SUGGESTED DATE: August 24, 2010



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MLGW FISCAL CONSENT

22. RESOLUTION awarding Contract No. 11392, Ethics Hotline, to Global Compliance Services, Inc. in the funded amount of \$34,509.38.
23. RESOLUTION awarding contract for an e-mail system upgrade to Venture Technologies in the amount of \$156,033.50
24. RESOLUTION awarding contract for tandem axle trailers as follows
- | | |
|----------------------------------|--------------------|
| Globe Trailer Manufacturing..... | \$32,780.00 |
| Memphis Equipment Company..... | <u>3,575.00</u> |
| Total: | <u>\$36,355.00</u> |
25. RESOLUTION awarding 24-month contract for galvanized steel expressway poles to Valmont c/o ACF Associates, Inc. in the amount of \$57,260.00
26. RESOLUTION approving Change No. 4 to Contract No. 10637, Claims and Legal Management System, with Computer Sciences Corporation, in the funded amount of \$118,711.95. (This covers continued provision of maintenance, enhancements and services for the period August 1, 2010 to July 31, 2013.
27. RESOLUTION giving the Vice President and General Counsel of MLGW contract authority in the amount of \$77,500.00 for a claims settlement.



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REGULAR AGENDA

28.
Strickland

APPOINTMENTS

Memphis Board of Ethics

Appointment

Edward L. Vaughn

Memphis Alcohol Commission

Reappointment

Sherman Greer

GENERAL ORDINANCES -THIRD AND FINAL READING

29.
Hedgepeth

ORDINANCE regulating the Encroachment of Cable and Video Services in the City's Rights-of-Way, up for T H I R D and F I N A L reading.(Held from 7/6)

Ordinance No. 5365

ACTION REQUESTED: Take whatever action Council deems advisable

30.
Boyd

ORDINANCE to amend Cable Franchise Ordinance No. 4159, extending the Franchise Ordinance as amended, up for T H I R D and F I N A L reading. (Held from 12/1; 12/15; 1/26; 2/23; 3/23; 5/25; 7/20)

Ordinance No. 5331

ACTION REQUESTED: Take whatever action Council deems advisable

ENGINEERING DIVISION

31. RESOLUTION authorizing acceptance of the Nike Phase II State Industrial Access Road (SIA) improvements to be made by the Tennessee Department of Transportation (TDOT) at no cost to the City of Memphis. Work will be completed by TDOT that includes construction of an intersection at the SIA Road at New Allen Road and improvements to the intersection at Frayser Boulevard and New Allen Road. Resolution further authorizes the Mayor of the City of Memphis to execute all documents necessary for the acceptance of these infrastructure and road improvements.

Hedgepeth

ACTION REQUESTED: Adopt the resolution

EXECUTIVE DIVISION

32. RESOLUTION accepting grant funds in the amount of Fifty Three Thousand, Two Hundred Ninety Eight Dollars, (\$53, 298.00) from the State of Tennessee Department of Labor and Workforce Development Division of WIA Title National Emergency Grant (NEG). Resolution also amends FY 2010-2011 Operating Budget to establish and appropriate grant funds.

Conrad

ACTION REQUESTED: Adopt the resolution

FINANCE & ADMINISTRATION

33. RESOLUTION amending the FY2010 Operating Budget to accept revenue from the State of Tennessee and also appropriate said revenues to cover marketing expenses related to the FedEx Forum, in the amount of \$757,500.00.

Morrison

ACTION REQUESTED: Adopt the resolution

DIVISION OF FIRE SERVICES (None)

DIVISION OF GENERAL SERVICES (None)

DIVISION OF HOUSING AND COMMUNITY DEVELOPMENT (None)

DIVISION OF HUMAN RESOURCES (None)

LAW DIVISION (None)

MLGW DIVISION

34. RESOLUTION changing eligibility requirements for the Utility Assistance Program.(Held from 7/20)

Fullilove

ACTION REQUESTED: Adopt the resolution

PARK SERVICES

35. RESOLUTION requesting the Administration to prepare a Request for Proposals to identify interested parties to operate the remaining city-owned community centers in an effort to increase efficiencies.(Held from 7/20)

Boyd

ACTION REQUESTED: Adopt the resolution

DIVISION OF POLICE SERVICES (None)

DIVISION OF PUBLIC SERVICES

36. RESOLUTION requesting the Administration to remove funding from proposed FY 2011 O&M Budget to cover costs associated with vehicle inspections. (Held from 4/13; 5/11; 6/22;7/20).

Ware

ACTION REQUESTED: Adopt the resolution

DIVISION OF PUBLIC WORKS

37. RESOLUTION requesting that previous Lick Creek study be updated and recommendations be made for improving the drainage issues.

Hedgepeth

ACTION REQUESTED: Adopt the resolution

38. RESOLUTION amending the FY 2011 Capital Improvement Budget by transferring an allocation and appropriating \$2,718,720.00 funded by Sewer Funds from Rehab Existing Sewers, project number SW02001 to Sewer Line Replacement FY2008, project number SW02074 and for an extension to a construction contract with Acuff Enterprises, Inc. DBA Scott Contractors, Inc.

Hedgepeth

ACTION REQUESTED: Adopt the resolution

39. RESOLUTION amending the Fiscal Year 2011 Capital Improvement Budget by transferring an allocation and appropriating \$220,000.00 funded by Sewer Revenue Bonds from Rehab Existing Sewers project number SW02001 to Concrete Replacement, project number SW02085 to replace curbs, gutters, sidewalks, etc., in various locations and for a construction contract with Barnes & Brower.

Hedgepeth

ACTION REQUESTED: Adopt the resolution

GENERAL ITEM

40. RESOLUTION requesting that City of Memphis Internal Auditing conduct an audit of the process of determining the Average Daily Membership numbers reported on the Basic Education Program Allocation 2010-2011 as well as, total attendance and the process by which this data is compiled at the school level.

ACTION REQUESTED: Adopt the resolution

APPEARANCE CARDS FOR PUBLIC SPEAKING

ADJOURNMENT

ADD-ONS

21. **NOTATIONS** from Land Use Control Board that the following cases were heard and Recommendation made requesting a date of public hearing:

D. Case No. PD 10-309- UNION AVENUE AND COOPER STREET
PLANNED DEVELOPMENT

Located on the southwest corner of Union Avenue and South Cooper Street, containing 1.448 acres in the Highway Commercial (C-L) and Duplex Residential (R-D) Districts.

Applicant: Hart-Redd, LLC
SR Consulting, LLC (Cindy Reaves) – Representative

Request: A planned development to permit retail use, CVS Pharmacy

LUCB and OPD recommendation: REJECTION

ACTION REQUESTED: Set a date of public hearing

SUGGESTED DATE: August 24, 2010

41. RESOLUTION amending the FY2011 HCD Operating Budget by increasing the Pyramid Redevelopment budget line in the amount of \$105,000.00 and by increasing the amount of revenue from Contract #25189 by \$105,000.00 and authorizing the Division of Housing and Community Development to expend said funds in furtherance of and in accordance with the terms and agreements as set forth in Contract #25189.

Collins

ACTION REQUESTED: Adopt the resolution

42. RESOLUTION to 1) accept and approve the 51± acre Pyramid and Pinch District Redevelopment Project, 2) accept and approve Bass Pro Memphis Development Company, LLC as the developer for the Project, 3) authorize the Mayor of the City of Memphis to execute the Lease and Development Agreement between the City of Memphis, and Bass Pro Memphis Development Company, LLC, for the development of the Site, and to take all measures necessary to complete the terms, conditions and obligations as set forth therein said Agreement, 4) allocate an amount up to and including Sixty Three Million Dollars (\$63,000,000.00) to the Pyramid and Pinch District Redevelopment, which shall be necessary to complete the terms, conditions, and obligations as set forth therein said Agreement.

Collins

ACTION REQUESTED: Adopt the resolution

ACTION TAKEN BY COUNCIL ON THIS DATE

1. Through 4 – Approved
5. Approved, as amended
6. and 7 – Approved
8. Approved, as amended. MLGW Portion (Amendment #1 and #2) will go back to Committee. Amendments #3 through #8 were approved
9. Held to September 14, 2010
10. Through 12 – Approved
13. Dropped
14. Through 20 – Approved
21. Public Hearing set for August 24, 2010
22. Through 28 – Approved
29. Held to September 14, 2010
30. Through 33 – Approved
34. Approved, as amended
35. and 36 – Held to September 14, 2010
37. Dropped
38. Through 41 – Approved
42. Approved, as amended

ACTION TAKEN ON THE MINUTES OF JULY 20, 2010

Approved

ACTION TAKEN ON THE MINUTES OF AUGUST 10, 2010 FOR ITEMS 26, 27, 32, 34, 41 & 42 ONLY:

Approved